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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,248	08/19/2003	Floyd A. Searer	OME01 P-102	4657
28101	7590	02/24/2006	EXAMINER	
VAN DYKE, GARDNER, LINN AND BURKHART, LLP			TRAN, HANH VAN	
2851 CHARLEVOIX DRIVE, S.E.				
P.O. BOX 888695			ART UNIT	
GRAND RAPIDS, MI 49588-8695			PAPER NUMBER	
			3637	

DATE MAILED: 02/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

1. This is the First Office Action on the Merits from the examiner in charge of this application in response to applicant's election of Group I for examination on the Merits.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitation of a "pie-shaped" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informalities: page 6, line 24-25, referring to figure 4 as showing a pie-shaped plate member; however, figure 4 shows a circular plate member.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 4, 6, 9-10, 12, 16, 20, 22-25 are rejected under 35 U.S.C. 102(b) as being anticipated by USP 3,331,515 to Lange.

Lange discloses a shelf comprising all the elements recited in the above listed claims including, such as shown in Fig 1, a circular plate member 21, a plurality of metal posts 23 mounted to said plate 21, a metal band 24; wherein each post including a slot to receive said band 24 and support said band to form a fence around at least a portion of the plate member 21, said plate member including a through-hole extending there through to receive a center post 14, such as shown in Fig 4.

6. Claims 1-2, 4, 6, 8-10, 13, 16-17, and 20-23 are rejected under 35 U.S.C. 102(b) as being anticipated by USP 684,886 to Tobey.

Tobey discloses a shelf comprising all the elements recited in the above listed claims including, such as shown in Figs 1-2, a center post 3, a circular wooden plate

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member 4, a plurality of metal posts 6 mounted to said plate 4, a metal band 7; wherein each post includes a slot to receive said band 24 and support said band to form a fence around at least a portion of the plate member, said plate member 4 has a plurality of openings, said posts 6 include proximal ends and distal ends, said proximal ends positioned in said openings, said slots extending into said distal ends, said openings comprises through holes, said plate member 4 includes a perimeter portion, said plurality of openings spaced along said perimeter portion wherein said band 7 forms a perimeter fence.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 2, 5, 7, 11, 14-15, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lange in view of USP 5,357,871 to Bowman.

Lange discloses all the elements as discussed above except for said plate member having a plurality of through holes extending through said plate member for receiving the ends of the posts, the plate member comprises a pie-shaped plate, the posts comprise aluminum posts, each of the posts includes a base portion and a projecting portion, each of said base portions portioned in a respective opening and having a smaller diameter than their respective projecting portion, each of said projecting portion rests on said plate member around a respective opening of said plate member, and said band comprises a plurality of band segments.

In regard to the plate member having through-holes and the band comprising a plurality of band segments, Bowman discloses a shelf comprising a plate member having a plurality of through-holes extending through said plate member, a plurality of posts 42 position in the through-holes of the plate member at the ends of the posts, wherein the through-holes allows the posts to be easily connected to or disconnected from the plate member, and a band comprising a plurality of band segments 40,40' for the purpose of preventing articles from sliding off the plate member. Therefore, it would have been obvious to modify the structure of Lange by providing the plate member with a plurality of through-holes extending through said plate member, and the plurality of posts position in the through-holes of the plate member at the ends of the posts, wherein the through-holes allows the posts to be easily connected to or disconnected from the plate member, and a band comprising a plurality of band segments 40,40' for the purpose of preventing articles from sliding off the plate member, as taught by

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Bowman, since both teach alternate conventional shelf structure, used for the same intended purpose of supporting articles thereon, thereby providing structure as claimed.

In regard to the plate member comprises a pie-shaped plate, the posts comprise aluminum posts, each of the posts includes a base portion and a projecting portion, each of said base portions portioned in a respective opening and having a smaller diameter than their respective projecting portion, each of said projecting portion rests on said plate member around a respective opening of said plate member, the examiner takes the Official position that (1) pie-shaped plate is well known in the art, therefore it would have been obvious to modify the structure of Lange by providing a pie-shaped plate member, (2) aluminum is a well known and commercially available product, therefore, it would have been well within the level of one skill in the art to have the posts comprise of aluminum posts, (3) it is well known in the art to provide a post with the base portion having a smaller diameter than the projecting portion, such that the projecting portion acting as shoulder and rests on a plate member around a respective opening.

Allowable Subject Matter

10. Claims 3, 18-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mahone et al, Eaglin et al, Schriever, Hammar, Archer, Bailey, and Hopkinson all show structures similar to various elements of applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (571) 272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HVT
February 20, 2006


Hanh V. Tran
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